

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

Case No. 2:16-cv-13040
District Judge Sean F. Cox
Magistrate Judge Anthony P. Patti

v.

ELITE HEALTH CENTERS, INC.,
ELITE CHIROPRACTIC, P.C.,
ELITE REHABILITATION, INC.,
MIDWEST MEDICAL
ASSOCIATES, INC., PURE
REHABILITATION, INC., DEREK
L. BITTNER, D.C., P.C., MARK A.
RADOM, DEREK LAWRENCE
BITTNER, D.C., RYAN MATTHEW
LUKOWSKI, D.C., MICHAEL P.
DRAPLIN, D.C., NOEL H. UPFALL,
D.O., MARK J. JUSKA, M.D.,
SUPERIOR DIAGNOSTICS, INC.,
CHINTAN DESAI, M.D., MICHAEL
J. PALEY, M.D., DEARBORN
CENTER FOR PHYSICAL
THERAPY, L.L.C., MICHIGAN
CENTER FOR PHYSICAL
THERAPY, INC., and JAYSON
ROSETT

Defendants.

/

ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT MICHAEL J. PALEY, M.D.'S OBJECTION TO STATE
FARM'S SUBPOENA TO CITIZENS BANK/CHARTER ONE BANK
AND MOTION TO QUASH (DE 132)

This matter is before the Court for consideration of Defendant Michael J. Paley, M.D.’s objection to State Farm’s subpoena issued to Citizens Bank/Charter One Bank and motion to quash (DE 132), Plaintiff State Farm Mutual Automobile Insurance Company’s (“State Farm Mutual”) response in opposition (DEs 164, 165), Paley’s reply brief (DE 223,) and the joint statement of resolved and unresolved issues (DE 242-7). Judge Cox referred this motion for hearing and determination (DE 135), and a hearing was noticed for August 3, 2018.

On the date set for hearing, attorneys Hillary Eagen, Kathy Josephson, Michael Rosensaft and Matthew Allen appeared and the Court entertained oral argument regarding the unresolved issues.

Upon consideration of the motion papers and oral argument of counsel, and for all of the reasons stated on the record by the Court, which are herein incorporated by reference, Paley’s objection and motion to quash (DE 132) is **GRANTED IN PART and DENIED IN PART**, and the Subpoena is modified as follows, with respect to the account(s) identified on the Subpoena:

1. The subpoenaed party shall search for and produce if found, from January 1, 2010 to the date of service of the Subpoena:
 - a. Account statements
 - b. Cancelled checks
 - c. Records of wire transfers
 - d. Loans and/or loan applications
 - e. Correspondence

which refer to the following search terms:

- Any of the named Defendants:
 - Elite Health Centers, Inc.,
 - Elite Chiropractic, P.C.,
 - Elite Rehabilitation, Inc.,
 - Midwest Medical Associates, Inc.,
 - Pure Rehabilitation, Inc.,
 - Derek Bittner, D.C., P.C.,
 - Mark A. Radom,
 - Derek Lawrence Bittner, D.C.,
 - Ryan Matthew Lukowski, D.C.,
 - Michael P Draplin, D.C.,
 - Noel H. Upfall, D.O.,
 - Mark J. Juska, M.D.,
 - Superior Diagnostic, Inc.,
 - Chintan Desai, M.D.,
 - Dearborn Center for Physical Therapy, LLC,
 - Michigan Center for Physical Therapy, Inc., and
 - Jayson Rosett
- Horizon Imaging
- Bittner Chiropractic Center
- Michael Morse
- The Mike Morse Law Firm
- Kenneth Jackson
- K Jacks Investigative Consulting
- Accident Information Bureau, LLC (“AIB”)
- Accident Information Bureau of Michigan, LLC (“AIB of MI”)

2. The subpoenaed party shall search for and produce, if found, the following, from January 1, 2010 to the date of service of the Subpoena, *without limitation*:

- a. Deposit slips
- b. Withdrawal slips
- c. Signature cards
- d. Documents related to the opening and/or closing of any account
- e. Corporate resolutions

- f. Documents related to any lockboxes and/or lockbox services (including documents relating to the opening and/or closing of any lockbox); and
- g. Documents relating to any reporting or filing with any governmental agency, including any CTRs and any Form 1099s, but excluding any SARs.

Finally, the Court declines to award costs to either side, because both sides' positions were substantially justified, the issues required rulings from the Court, and the statement required by Local Rule 7.1(a)(2) was incomplete.

IT IS SO ORDERED.

Dated: August 7, 2018

s/***Anthony P. Patti***

Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on August 7, 2018, electronically and/or by U.S. Mail.

s/***Michael Williams***

Case Manager for the
Honorable Anthony P. Patti